

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

347B0485

HOUSE BILL NO. 1204

Introduced by: Representatives de Hueck, Broderick, and Brown (Jarvis) and Senators Munson (David) and Flowers

1 FOR AN ACT ENTITLED, An Act to allow the notation of a lien on the manufacturer's
2 statement of origin or the manufacturer's certificate of origin for a motor vehicle or a boat.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-3-41 be amended to read as follows:

5 32-3-41. ~~Any~~ A security interest, mechanic's lien, or similar instrument other than a financing
6 statement covering a motor vehicle, trailer, or semitrailer, ~~if the instrument is accompanied by~~
7 ~~delivery of the manufacturer's statement of origin or the manufacturer's certificate of origin and~~
8 ~~followed by actual and continued possession of the same by the holder of the instrument, is~~
9 created if notation of same has been made by the seller, buyer, owner, holder of the instrument,
10 or an agent of the secretary on the manufacturer's statement of origin or the manufacturer's
11 certificate of origin, or in the case of the certificate of title, if a notation of same has been made
12 by the secretary ~~or, an agent of the secretary, the~~ county register of deeds, or a county treasurer
13 on the face thereof or if notation of same has been made by the seller, buyer, owner, ~~or~~ holder
14 of the instrument, or agent of the secretary on the reverse thereof, shall be valid against the
15 creditors of the debtor, whether armed with process or not, and subsequent purchasers and other

lien holders or claimants, but otherwise is not valid against them.

Section 2. That § 42-8-82 be amended to read as follows:

42-8-82. A security interest created in this state in a large boat, and as defined by §§ 42-8-71 to 42-8-74, inclusive, and §§ 42-8-76 to 42-8-84, inclusive, on and after March 1, 1992, is not perfected until the security interest is noted on the certificate of title. On or after July 1, 1993, a security interest created in this state on a large boat, as defined in § 42-8-2, exclusive of a motorboat is not perfected until the security interest is noted on the certificate of title. On or after July 1, 1994, a security interest created in this state on a large boat, as defined in § 42-8-2, is not perfected until the security interest is noted on the manufacturer's statement of origin, on the manufacturer's certificate of origin, or on the certificate of title. To perfect the security interest, a copy of the security agreement shall be presented along with the manufacturer's statement of origin, the manufacturer's certificate of origin, or the original title. The secretary of revenue, an agent of the secretary, the county treasurer, the register of deeds, or the seller, buyer, owner, or holder of the ~~instrument~~ manufacturer's statement of origin, the manufacturer's certificate of origin, or the certificate of title shall note the security interest at any place on the ~~instrument, and if~~ manufacturer's statement of origin, the manufacturer's certificate of origin, or the certificate of title. ~~If~~ so noted, the lien ~~shall be~~ is perfected against the creditors of the debtor, ~~shall be~~ is valid against the creditors of the debtor, whether armed with process or not, and subsequent purchasers and other lien holders or claimants, but otherwise is not valid against them. The fee for noting the lien is five dollars. The fees shall be credited to the county general fund. The certificate of title shall be presented to the county register of deeds if a lien is to be noted on an existing certificate of title.

The owner shall present the certificate of title to the county register of deeds when a release statement is filed.

Section 3. That § 32-5-129 be amended to read as follows:

1 32-5-129. The secretary of revenue may license agents to perform the duties of county
2 treasurers, including collecting fees and taxes ~~and~~, registering and titling vehicles or boats, and
3 noting liens on titles, pursuant to this chapter, chapter 32-5A, ~~and~~ chapter 32-5B, chapter 32-3,
4 and chapter 42-8.

5 Section 4. That § 32-3-1 be amended by adding thereto a NEW SUBDIVISION to read as
6 follows:

7 "Notation," a physical or electronic process of recording a lien on a certificate of title, a
8 manufacturer's statement of origin, or a manufacturer's certificate of origin.

9 Section 5. That chapter § 42-8-2 be amended by adding thereto a NEW SUBDIVISION to
10 read as follows:

11 "Notation," a physical or electronic process of recording a lien on a certificate of title, a
12 manufacturer's statement of origin, or a manufacturer's certificate of origin.